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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,963	07/13/2001	Edward Paul Harhen	TRANS 3.0-038A	5166
530	7590	05/05/2005	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			MANTIS MERCADER, ELENI M	
			ART UNIT	PAPER NUMBER
			3737	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/904,963

Applicant(s)

HARHEN ET AL.

Examiner

Eleni Mantis Mercader

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Response to Arguments***

Applicant's arguments filed on 01/28/2005 have been fully considered but they are not persuasive. The Applicant on the Response dated 12/28/2003 stated that the focusing in O'Connor is not because of the acoustic velocity of the balloon contents. While the O'Connor reference states, "The aqueous solution in the balloon 22 readily transmits and focuses energy to the thrombus..." (see col. 3, lines 43-45), the Applicant stated that the aqueous solution does not have a different acoustic velocity. Also, note that the O'Connor reference states that the balloon is inflated in order to focus the energy ("Following inflation of the balloon 20, the ultrasound transducer is energized causing ..." (see col. 3, lines 43-44)). The Examiner introduced the secondary reference to provide the express teaching that the balloon structure along with its contents (different velocities) provides the focusing mechanism. The O'Connor reference while stating that the balloon is inflated and the aqueous medium focuses the energy the expressed combination of the balloon and its content was not expressly stated. The secondary reference makes the second teaching more clear. The motivation is expressly stated in the secondary reference as previously stated. Therefore, this action is maintained and made final.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3737

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as obvious over O'Connor'792 in view of Viebach'005.

O'Connor'792 teaches all the features of the instant invention including an ultrasonic emitter at the distal end of the catheter having an emitting surface extending around a central axis and facing outwardly away from said central axis (see Figure 3; tubular ultrasonic transducer 24 and also see col. 3, lines 33-57); and an inflatable lens having a refractive surface extending around the central axis when the lens is in an inflated condition surrounding the emitter so that some of the emitted ultrasonic energy is directed through the refractive surface of the lens into the tissue of the subject, focusing ultrasonic energy into an annular focal region surrounding the central axis (referring to balloon 22 which focuses ultrasonic energy to break up the thrombus and also see col. 3, lines 41-57 ).

O'Connor'792 does not explicitly state that the ultrasonic energy is focused by the inflatable balloon (meaning its inflation and thereby structure as well as its contents meaning medium with different velocities).

Viebach'005 teaches focusing of ultrasonic energy, which can be performed by multiple balloons having at least one inflatable surface and having different media with different acoustic velocities to adjust the focal length (see col. 1, line 55- col. 2, line 52).

It would have been obvious to one skilled in the art at the time that the invention was made to have modified O'Connor'792 in view of Viebach'005 in using the inflatable balloon with media having different acoustic velocities as a focusing structure because it provides a focusing device with a wide range of focal lengths and reduces technical expenditures (motivation to combine provided in Viebach'005 col. 1, lines 55-59).

*Conclusion*

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

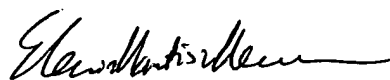
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 3737

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eleni Mantis Mercader whose telephone number is (571) 272-4740. The examiner can normally be reached on Mon. - Fri., 8:00 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (571) 272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eleni Mantis Mercader  
Primary Examiner  
Art Unit 3737

EMM